

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

U.S. DISTRICT COURT
DISTRICT OF N.H.
FILED

SAMUEL J. BOURNE,
Plaintiff

Docket No. 12-cv-251-PB

2012 SEP 24 P 2:52

v.

STATE OF NEW HAMPSHIRE,
SUPREME COURT OF NEW HAMPSHIRE,
LINDA STEWART DALIANIS individually,
JAMES E. DUGGAN individually,
GARY E. HICKS individually,
CAROL ANN CONBOY individually,
ROBERT J. LYNN individually, and
EILEEN FOX individually,

Defendants

NOTICE OF APPEAL

Now Comes the Plaintiff Mr. Bourne and hereby give notice of appeal, regarding the unjust dismissal of all claims (Ct. order no. 19) and failure to recuse (Ct. order no. 18), and the Plaintiff states as follows:

Introduction

The Plaintiff was compelled to bring suit against the Defendants for their violations of the Plaintiff's 1st amendment rights, whereby prohibiting the Plaintiff from seeking redress from the government. In addition, Defendants' actions to deprive the Plaintiff from exhausting all State remedies, and/or depriving the Plaintiff from [any] rehearing what-so-ever constitutes a direct violation of various provisions of the United States Constitution, including the privileges and immunities clause of article IV, § 2. In addition, the Plaintiff sought "Injunctive Relief" from

unconstitutional retaliatory fines implemented to deter Plaintiff from seeking redress, and Plaintiff also sought "Declaratory judgment" which the Court failed to acknowledge.

For the record, the Plaintiff also rejects the offensive and discriminatory "*disgruntled litigant*" statement made by Judge Babadoro at 7 (Ct. order no. 19). Such unintelligible statements by a so-called judge clearly demonstrates his bias toward the Plaintiff. As such, a lesson in Constitutional law, [or] removal from the bench, may be necessary. In addition, Defendants herein are not "absolute" immune from being held responsible for their abusive conduct. See New Hampshire Constitution: "*[Art.] 8. [Accountability of Magistrates and Officers.] All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them. Government, therefore, should be open, accessible, accountable and responsive.*" See also liability under the theory of Respondeat Superior. Therefore, the Defendants in fact, can be held accountable for their actions.

Neither the Court, its employees, nor the State itself enjoys full sovereign immunity from tort liability. *Merrill v. Manchester*, 114 N.H. 722, 725, 332 A.2d 378, 383-84 (1974); RSA 541-B:19 (Supp. 1994). In fact, immunity is the exception, rather than the rule, in tort cases. See RSA 541-B:19; *Schoff v. City of Somersworth*, 137 N.H. 583, 589, 630 A.2d 783, 787 (1993).

Continued Violation of the Due Process

Defendant[s] previous (**employee and associate**) Judge Paul Barbadoro, has in fact, violated: 28 U.S.C. 455:(a); 28 U.S.C. 455 (b); and Cannon 3 (c) (1) for failure to recuse himself. In addition, should a biased judge with known conflicts of interest, such as here, not disqualify himself, then that judge is in violation of the Due Process Clause of the U.S. Constitution. *United States v. Sciuto*, 521 F.2d 842, 845 (7th Cir. 1996).

Conclusion

Judge Babadoro's obvious favoritism toward the Defendants, and failure to recuse himself in spite of known conflicts of interest, has now [tainted] this Court's integrity.

Respectfully Submitted,



Samuel Bourne individually,
117 Pond Street
East Bridgewater, MA 02333
508-378-9319

Sep 21, 2012

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been forwarded via U.S. First Class Mail, postage prepaid, to counsel for the Defendant[s], Michael A. Delaney Attorney General of N.H., and Nancy J. Smith Senior Assistant Attorney General of N.H., 33 Capital Street Concord, N.H. 03301



U.S. District Court
District of New Hampshire
55 Pleasant Street
Concord, NH 03301

Sep 21, 2012 U.S. DISTRICT COURT
DISTRICT OF N.H.
FILED

2012 SEP 24 P 1:02

Attention: Clerks Office

Ref: 12-cv-251-PB

Dear Clerk

Here enclosed is my notice of appeal, and the required check for \$455.00
If you have any questions or concerns, please feel free to contact me.

Sincerely,



Sam Bourne
117 Pond Street
East Bridgewater, MA 02333
office no. 508-378-9319